



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of June 12, 2010**

DATE: June 1, 2010

SUBJECT:

1. Enactment of An Ordinance to Vacate a Portion of 17th Street North in Connection with SP# 411 (Adjacent to and Between RPC# 17011006, 17011007, 17011008, 17011009, 17011017, 17011018 and 17011019).
2. Enactment of An Ordinance to Vacate a Portion of a Sanitary Sewer Easement in Connection with SP# 411 (RPC# 17011008).

Applicant: ZOM 1900 Wilson, L.P.

By: Erika L. Byrd, Venable LLP, Attorney/Agent
8010 Towers Crescent Drive, Suite 300
Vienna, Virginia 22182

C. M. RECOMMENDATIONS:

1. Enact the attached Ordinance to Vacate a Portion of 17th Street North, Beginning at the Eastern Boundary of Lot 25B, Washington View and Running East Between the Southern Boundary of Part of Lot 14, Part of Lot 13, Part of Lot 12, Part of Lot 11 and Part of Lot 10, Washington View and the Northern Boundary of Lot 26, Lot 27, and a Portion of Lot 28, Washington View, Adjacent to and Between RPC# 17011006, 17011007, 17011008, 17011009, 17011017, 17011018 and 17011019, with conditions.
2. Enact the attached Ordinance to Vacate a Portion of a 10 foot Sanitary Sewer Easement Running South to North Across the Northwest Corner of Lot 26, Washington View, RPC# 17011008, with conditions.
3. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, to execute, on behalf of the County Board, the Deeds of Vacation and all documents necessary to effectuate the Ordinances of Vacation, subject to approval as to form by the County Attorney.

County Manager: MB/GA

County Attorney: BAK/SM

Staff: Linda Collier, Real Estate Bureau, DES

40. D. – E.

ISSUES: The Applicant has requested: 1) the vacation of a portion of 17th Street North, totaling 7,927 square feet; and 2) the vacation of a portion of a 10' Sanitary Sewer Easement, totaling 220 square feet in order to build the project contemplated by Site Plan #411. There are no issues identified with this request.

SUMMARY: The Applicant has requested: 1) the vacation of a portion of 17th Street North, totaling 7,927 square feet; and 2) the vacation of a portion of a 10' Sanitary Sewer Easement, totaling 220 square feet in order to build the project contemplated by Site Plan #411. The 17th Street North vacation and the 10' Sanitary Sewer vacation are collectively referred to as the "Ordinances of Vacation".

With the enactment of the Ordinances of Vacation, and upon satisfaction of the conditions contained in the staff report and recordation of the Deeds of Vacation, the County's interest in the areas that are the subject of the Ordinances of Vacation will be extinguished.

BACKGROUND: In order to build the project that is proposed for Site Plan #411 ("Site Plan"), the Applicant has requested the vacation of a portion of 17th Street North ("Street Vacation") and a portion of a 10' Sanitary Sewer Easement in the northwest corner of Lot 26, Washington View ("Sewer Vacation"). (See Vicinity Maps, attached hereto as Exhibits D-1 and D-2). In order to consolidate the property upon which the proposed Site Plan will be built, the Applicant has requested the Ordinances of Vacation.

The Street Vacation area is an unconstructed paper street which is not designated as "street" on the Master Transportation Plan ("MTP"). The Planning Commission has considered the proposed vacation and found it to be substantially in accord with the Comprehensive Plan.

The Street Vacation area is depicted on a plat entitled "Plat Showing the Vacation of a Portion of 17th Street North (Deed Book K-4, Page 335), Arlington County, Virginia," dated December 15, 2008, last updated June 3, 2010, prepared by Bowman Consulting Group, Ltd. ("Street Plat"), and attached as Exhibit A. The Sewer Vacation area is depicted on a plat entitled "Plat Showing the Vacation of a 10" Sanitary Sewer Easement on Lots 26, 27 & 28 Washington View (Deed Book K-4, Page 335) Arlington County, Virginia," dated June 6, 2008, last revised June 3, 2010, prepared by Bowman Consulting Group, Ltd. ("Sewer Plat"), and attached hereto as Exhibit B.

As a condition of the Site Plan, a condition of the Street Vacation, and as compensation for the Street Vacation, the Applicant will be required to: 1) dedicate, in fee, for public use: a) the underlying fee for a 8,234 square foot portion of the Street and Utilities Easement for Clarendon Boulevard ("Clarendon Boulevard Dedication"); and b) a 2,763 square foot portion designated as Parcel "B" ("Parcel B Dedication") (both the Clarendon Boulevard Dedication and the Parcel B Dedication are shown on Exhibit C attached hereto and Sheet C4.2 of the 4.1 plans for the Site Plan, entitled, "Preliminary Consolidation and Resubdivision Plat 1900 Wilson Blvd. Arlington County, Virginia", prepared by Bowman Consulting Group, Ltd., last revised May 12, 2010"); 2) provide \$100,000 of improvements to the Parcel B Dedication; and 3) relocate the utilities (a water line and a sanitary sewer line) located in the Street Vacation area.

As a condition of the Sewer Vacation, the Applicant is relocating and replacing the sanitary sewer line that is located in the area of the Sewer Vacation, pursuant to a relocation plan approved by the County.

County staff has determined that the 7,927 square foot Street Vacation and the 220 square foot Sewer Vacation will not interfere with any present or planned County projects in the area.

DISCUSSION: To build the Site Plan, the Applicant must obtain the Ordinances of Vacation in order to consolidate the property upon which the Street Vacation and the Sewer Vacation are located with other property owned by the Applicant. The Street Vacation is consistent with the County's Comprehensive Plan and all applicable portions thereof. Given that 17th Street North is not noted as a street on the Master Transportation Plan, that the County is receiving dedication of equal or greater fee area as compensation for the Street Vacation, along with improvements valued at \$100,000 to Parcel B, and that the Applicant is relocating and rebuilding any utilities located in areas of the Street Vacation and the Sewer Vacation, enactment of the Ordinances of Vacation will not impact the transportation system or the utilities in question and staff has no objection to such vacations. The proposed Ordinance(s) of Vacation are attached to this report as "Attachment 1" and "Attachment 2".

Legal and Physical Description: The area of the Street Vacation is described on the Street Plat attached to this report as Exhibit A. The County acquired 17th Street North by Subdivision Plat dated May 2, 1890, recorded May 2, 1890 among the land records of Arlington County, Virginia ("Land Records") in Deed Book K-4, Page 335. The area of the Sewer Vacation that is the subject of this request for vacation is described on the Sewer Plat, attached to this report as Exhibit B. The County acquired the Sanitary Sewer Easement that is the subject of the Sewer Vacation by Deed of Easement dated August 28, 1978, recorded among the Land Records in Deed Book 1974 at Page 511.

Compensation: As compensation for the Street Vacation, the Applicant is dedicating, for public use, the underlying fee of the Street and Utilities Easement over the portion of Clarendon Boulevard as shown on Exhibit C and the fee for Parcel B as shown on Exhibit C. In addition, the Applicant is contributing, through a site plan condition, improvements, as determined by the final approved engineering plan and final approved landscaping plan, valued at \$100,000 for Parcel B and relocating the utilities currently located in 17th Street North (a water line and a sanitary sewer line). The dedicated areas to be given to the County (Clarendon Boulevard Dedication and Parcel B Dedication) are larger than the area of the Street Vacation and are located in the same vicinity. Based upon the similar or greater value of the property interests and the additional cash (or cash equivalent) that the County is receiving, Staff recommends that the proposed dedications and improvements fully compensate the County for the Street Vacation. The County typically does not charge for the vacation of utility easements located wholly upon an applicant's property. Hence, staff recommends that no compensation be required from the Applicant for the requested Sewer Vacation.

Public Notice: Public notice of the enactment of the proposed Ordinances of Vacation was given in accordance with the Code of Virginia. Notices were placed in the April 27, 2010 and May 4, 2010 issues of the Washington Times for the Planning Commission Meeting on May 10, 2010

and the County Board Meeting of May 22, 2010. Hearing of the matters was deferred until the June 12, 2010 County Board Meeting.

FISCAL IMPACT: None.

CONCLUSION: It is recommended that the County Board enact the attached Ordinances to Vacate: 1) a Portion of 17th Street North (Adjacent to and Between RPC# 17011006, 17011007, 17011008, 17011009, 17011017, 17011018 and 17011019); and 2) a Portion of a Sanitary Sewer Easement (RPC# 17011008), both to facilitate the development of Site Plan #411.

ATTACHMENT 1

AN ORDINANCE TO VACATE A PORTION OF 17TH STREET NORTH, BEGINNING AT THE EASTERN BOUNDARY OF LOT 25B, WASHINGTON VIEW AND RUNNING EAST BETWEEN THE SOUTHERN BOUNDARY OF PART OF LOT 14, PART OF LOT 13, PART OF LOT 12, PART OF LOT 11 AND PART OF LOT 10, WASHINGTON VIEW AND THE NORTHERN BOUNDARY OF LOT 26, LOT 27, AND A PORTION OF LOT 28, WASHINGTON VIEW, ADJACENT TO AND BETWEEN RPC NOS. 17011006, 17011007, 17011008, 17011009, 17011017, 17011018 AND 17011019, WITH CONDITIONS.

BE IT ORDAINED that, pursuant to a request by ZOM 1900 Wilson, L.P. (“Applicant/Owner”), on file in the offices of the Department of Environmental Services, a portion of 17th Street North, beginning at the eastern boundary of Lot 25B, Washington View and running east between the southern boundary of Part of Lot 14, Part of Lot 13, Part of Lot 12, Part of Lot 11 and Part of Lot 10, Washington View and the northern boundary of Lot 26, Lot 27, and a portion of Lot 28, Washington View, adjacent to and between RPC Nos. 17011006, 17011007, 17011008, 17011009, 17011017, 17011018 and 17011019, and created by Subdivision Plat, dated May 2, 1890, recorded in Deed Book K 4, at Page 335 on May 2, 1890 among the land records of Arlington County, Virginia, and which portion of 17th Street North is shown on a plat entitled “Plat Showing The Vacation of a Portion of 17th Street North (Deed Book K-4, Page 335) Arlington County Virginia,” dated December 15, 2008, last revised June 3, 2010, prepared by Bowman Consulting Group, Ltd., attached to the County Manager’s June 1, 2010 report as Exhibit A, is hereby vacated, subject to the following conditions:

1. The Applicant/Owner shall, at its own cost and expense, either remove or abandon in place, as determined and required by County Manager, or designee, the existing water main and sanitary sewer facilities, located within the portion of 17th Street North herein vacated (“Water Main” and “Sanitary Sewer Line(s)”). If such Water Main and Sanitary Sewer Line(s) are required to be relocated, then the Applicant/Owner shall, at its own cost and expense, relocate and reconstruct the Water Main and appurtenant facilities and the Sanitary Sewer Line(s) and appurtenant facilities of size, dimension and location acceptable to Arlington County (“County”), in strict accordance with Arlington County Construction Standards and Specifications, and all applicable laws, ordinances, regulations and policies.
2. The Applicant/Owner shall dedicate, grant and convey to the County water line and sanitary sewer easements, at locations and of dimensions necessary to accommodate the relocated Water Main, Sanitary Sewer Line(s) and appurtenant facilities as required by the County. Such lines and facilities, upon acceptance by the County, shall be owned by the County.
3. The Applicant/Owner shall submit, for review and approval, to the Department of Environmental Services (“DES”), a utility relocation and engineering design plan (“Plan”), either as part of the final engineering plans required by the conditions of Site Plan #411 (“Site Plan”) or as a separate utility relocation and engineering design plan, for the construction, relocation, removal, replacement and/or abandonment of the Water Main and Sanitary Sewer Line(s) and appurtenant facilities. Such Plan shall be in compliance with the Arlington County Construction Standards and Specifications and the Plan shall be subject to approval by the County Manager, or

designee. The Plan shall include, among other things, the requirement that the Applicant/Owner shall, at its sole cost and expense, repave the full width of Clarendon Boulevard from the intersection of the western side of future Troy Street in an easterly direction to a point which is fifty (50) feet past the area disturbed resulting from the installation of the utility lines relocated from 17th Street North, in accordance with County Standards and Specifications (“Clarendon Boulevard Repaving”).

4. The Applicant/Owner shall submit to the County Manager, or designee, a bond, letter of credit, or other security, in an amount and in a form as determined by, and acceptable to, the County Manager or designee, to secure the proper construction, relocation, removal, replacement or abandonment of the Water Main and Sanitary Sewer Line(s) and appurtenant facilities, and the Clarendon Boulevard Repaving, according to the approved Plan.

5. The Applicant/Owner shall dedicate, grant and convey to the County, in fee simple, for public purposes, the underlying fee interest for the portion of Clarendon Boulevard required to be dedicated to the County in Condition #80 of the Site Plan (“Clarendon Boulevard Dedication”).

6. The Applicant/Owner shall dedicate, grant and convey to the County, in fee simple, for public purposes, the 2,763 square foot area located to the southeast of Clarendon Boulevard required by Condition #80 of the Site Plan (“Parcel B Dedication”).

7. The Applicant/Owner shall either: A) construct \$100,000 of improvements to Parcel B as set forth in Condition # 81 of the Site Plan (“Improvements”); or B) submit a bond, letter of credit, or other type of security (collectively “Bond”), approved by the County Manager, or designee, in the amount of \$100,000, to guarantee installation and construction of the Improvements. The Bond required by this paragraph may be separate or a part of the Bond required in paragraph 4 above.

8. The Applicant /Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, all required plats, and all required deeds of easement, and deeds of dedication, subject to approval thereof as to substance by the County Manager, or designee, and approval of the deeds as to form by the County Attorney.

9. The Applicant/Owner shall record all plats, the Deed(s) of Vacation, and all deeds of easement and/or dedication required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.

10. The Applicant/Owner shall pay all fees, including the fees for review, approval, and recordation of the required documents associated with the Ordinance of Vacation.

11. All conditions of the Ordinance of Vacation shall be met by June 12, 2013 or the Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

ATTACHMENT 2

AN ORDINANCE TO VACATE A PORTION OF A 10 FOOT SANITARY SEWER EASEMENT RUNNING SOUTH TO NORTH ACROSS THE NORTHWEST CORNER OF LOT 26, WASHINGTON VIEW, RPC NO. 17011008, WITH CONDITIONS.

BE IT ORDAINED that, pursuant to a request by ZOM 1900 Wilson, L.P. (“Applicant/Owner”), on file in the offices of the Department of Environmental Services, a portion of a 10 foot Sanitary Sewer Easement running south to north across the northwest corner of Lot 26, Washington View, RPC No. 17011008, and created by a Deed, dated August 28, 1978, recorded in Deed Book 1974, at Page 511 on August 28, 1978 among the land records of Arlington County, Virginia (“Sewer Easement”), and which portion of the Sewer Easement is shown on a plat entitled “Plat Showing The Vacation of A 10’ Sanitary Sewer Easement on Lots 26, 27 & 28 Washington View (Deed Book K-4, page 335) Arlington County, Virginia,” dated June 6, 2008, last revised June 3, 2010, prepared by Bowman Consulting Group, Ltd., attached to the County Manager’s June 1, 2010 report as Exhibit B, is hereby vacated, subject to the following conditions:

1. The Applicant/Owner shall, at its own cost and expense, either remove or abandon in place, as determined and required by County Manager, or designee, the existing sanitary sewer facilities vacated herein (“Sanitary Sewer Line(s)”). If such Sanitary Sewer Line(s) are required to be relocated, then the Applicant/Owner shall, at its own cost and expense, relocate and reconstruct the Sanitary Sewer Line(s) and related appurtenant facilities of size, dimension and location acceptable to Arlington County (“County”), in strict accordance with Arlington County Construction Standards and Specifications, and all applicable laws, ordinances, regulations and policies.
2. The Applicant/Owner shall dedicate, grant and convey to the County sanitary sewer easements, at locations and of dimensions necessary to accommodate the relocated Water Main, Sanitary Sewer Line(s) and appurtenant facilities as required by the County. Such line(s) and facilities, upon acceptance by the County, shall be owned by the County.
3. The Applicant/Owner shall submit, for review and approval, to the Department of Environmental Services (“DES”), a utility relocation and engineering design plan (“Plan”), either as part of the final engineering plans required by the conditions of Site Plan # 411 (“Site Plan”) or as a separate utility relocation and engineering design plan, for the construction, relocation, removal, replacement and/or abandonment of the Sanitary Sewer Line and appurtenant facilities. The Plan shall be subject to approval by the County Manager, or designee and shall be in compliance with the Arlington County Construction Standards and Specifications. The Plan shall include, among other things, the requirement that the Applicant/Owner shall, at its sole cost and expense, repave the full width of Clarendon Boulevard from the intersection of the western side of future Troy Street in an easterly direction to a point which is fifty (50) feet past the area disturbed resulting from the installation of the utility lines relocated from 17th Street North, in accordance with County Standards and Specifications (“Clarendon Boulevard Repaving”).

4. The Applicant/Owner shall submit to the County Manager, or designee, a bond, letter of credit, or other security, in an amount and in a form as determined by, and acceptable to, the County Manager or designee, to secure the proper construction, relocation, removal, replacement or abandonment of the Sanitary Sewer Line and appurtenant facilities and the Clarendon Boulevard Repaving, according to the approved Plan.
5. The Applicant /Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, all required plats, and all required deeds of easement, and deeds of dedication, subject to approval thereof as to substance by the County Manager, or designee, and approval of the deeds as to form by the County Attorney.
6. The Applicant/Owner shall record all plats, the Deed(s) of Vacation, and all deeds of easement and/or dedication required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
7. The Applicant/Owner shall pay all fees, including the fees for review, approval, and recordation of the required documents associated with the Ordinance of Vacation.
8. All conditions of the Ordinance of Vacation shall be met by June 12, 2013, or the Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

EXHIBIT B

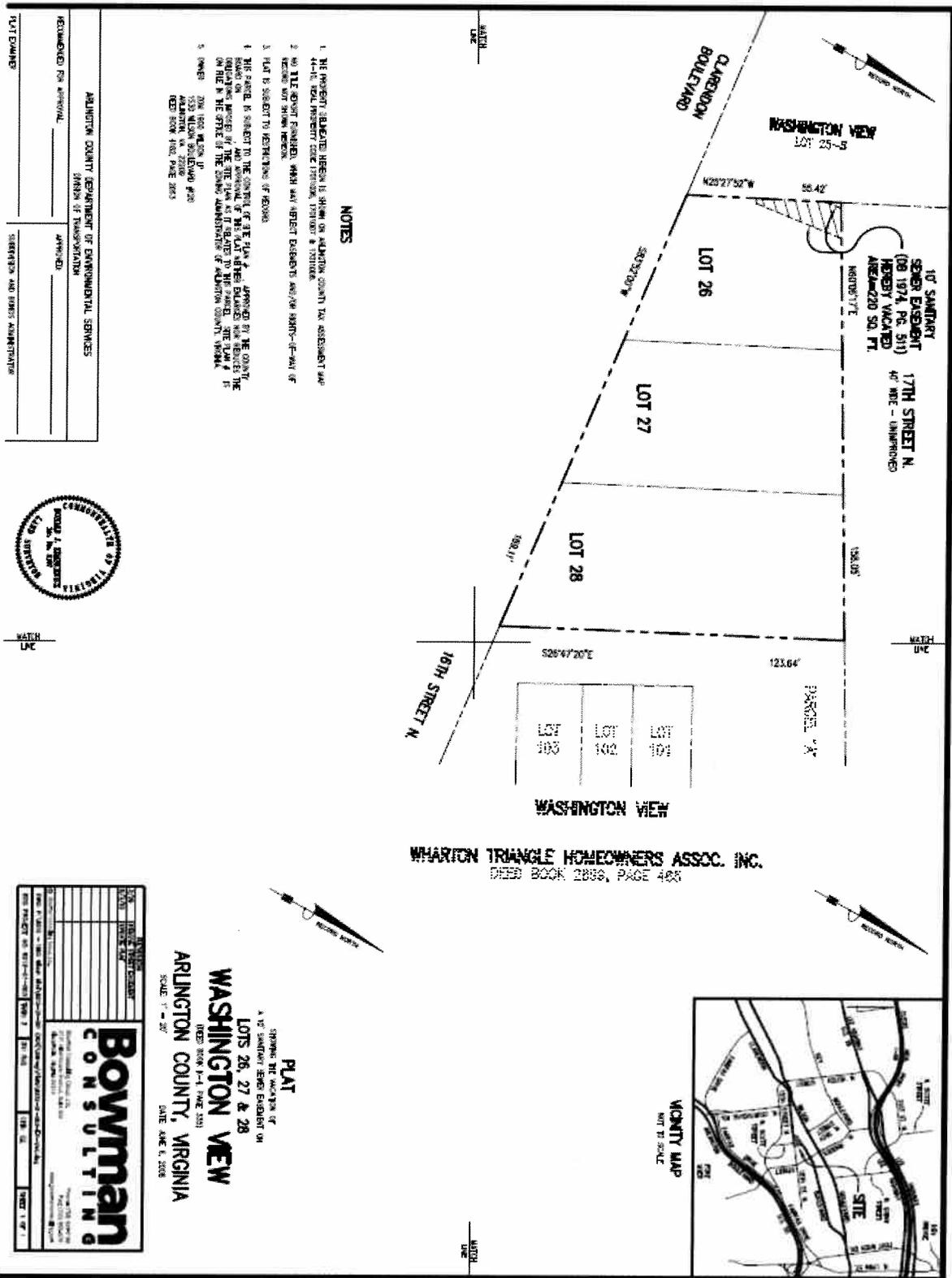


EXHIBIT D-1

Vicinity Map
 1900 Wilson Blvd
 RPC # 17011017, 17011018, 17011019,
 17011009, 17011008, 17011007, & 17011006



EXHIBIT D-2

Vicinity Map
1900 Wilson Blvd
RPC # 17011017, 17011018, 17011019,
17011009, 17011008, 17011007, & 17011006

